

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,
-against-

MEMORANDUM & ORDER
09-CV-3564 (JS) (ETB)

THOMAS MAMMOLITO, THOMAS AUTOMOTIVE,
LLC, and THOMAS DODGE CORP. OF NEW
YORK n/k/a THOMAS SUBARU CORP.,

Defendants.

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APPEARANCES

For Plaintiff: Mary M. Dickman, Esq.
Beth Patricia Schwartz, Esq.
William B. Young, Esq.
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, NY 11201

For Defendants: Steven Blatt, Esq.
Bellavia Gentile & Associates, LLP
200 Old Country Road, Suite 400
Mineola, NY 11501

SEYBERT, District Judge:

Pending before the Court is Magistrate Judge E. Thomas Boyle's Report and Recommendation ("R&R"), issued on January 4, 2012. For the reasons that follow, the Court ADOPTS this R&R in its entirety.

BACKGROUND

Plaintiff United States of America ("Plaintiff") commenced this action on behalf of its agency Small Business Administration on August 19, 2009 against Defendants Thomas

Mammolito, Thomas Automotive, LLC, and Thomas Dodge Corp. of New York seeking to recover the amount allegedly due and owing under a promissory note. (Docket Entry 1.) On October 26, 2009, Defendants answered the Complaint. (Docket Entry 2.) The parties proceeded with discovery until May 19, 2011, when Defendants filed a stipulation withdrawing their Answer and waiving any rights to file a motion to dismiss or a new Answer. (Docket Entry 17.) The stipulation was so ordered by the Court on May 23, 2011. (Docket Entry 19.) On May 24, 2011, Plaintiff moved for entry of a default judgment against Defendants. (Docket Entry 21.) On May 25, 2011, the Clerk of the Court noted Defendants' default. On August 5, 2011, the Court referred Plaintiff's motion to Judge Boyle.

On January 4, 2012, Judge Boyle issued an R&R recommending that a default judgment be granted and that Plaintiff be awarded damages in the amount of: (i) \$1,059,833.97 in unpaid principal on the promissory note; (ii) \$214,333.97 in interest; and (iii) additional interest in the amount of \$161.62 for each day between January 4, 2012 and the date of judgment.

No party has objected to any portion of Judge Boyle's R&R.

DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the "court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Here, no party objected to Judge Boyle's R&R. And the Court finds his R&R to be correct, comprehensive, well-reasoned and free of any clear error. Accordingly, the Court ADOPTS it in its entirety.

CONCLUSION

Judge Boyle's R&R is ADOPTED in its entirety, and accordingly, Plaintiff's motion for a default judgment is GRANTED. Plaintiff is awarded a default judgment in the amount of \$1,274,167.94, with additional interest to be calculated at a rate of \$161.62 per day from January 4, 2012 through the date of judgment.

The Clerk of the Court is directed to enter a Judgment consistent with this Order and mark this matter CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: February 22, 2012
Central Islip, NY